

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

TECO GUATEMALA HOLDINGS, LLC	)	
	)	
Petitioner,	)	
v.	)	<b>Civ. No.</b> _____.
	)	
REPUBLIC OF GUATEMALA.	)	
	)	
Respondent.	)	
_____	)	

**NOTICE OF REMOVAL**

Respondent Republic of Guatemala (“Guatemala”), by and through its undersigned counsel, hereby provides notice pursuant to 28 U.S.C. § 1446 of the removal of the above captioned case from the Supreme Court for the State of New York, County of New York to the United States District Court for the Southern District of New York, and states as follows:

**FACTUAL AND PROCEDURAL BACKGROUND**

1. On November 4, 2019, the District Court for the District of Columbia entered a judgment in favor of TECO Guatemala Holdings LLC. (“TECO”) in the amount of \$35,462,237, plus interest (the “Judgment”). *See TECO Guatemala Holdings v. Republic of Guatemala*, No. 1:17-cv-00102 [ECF No. 50] ( D.D.C. November 2019). Guatemala appealed the Judgment to the United States Court of Appeals for the D.C. Circuit on December 4, 2019. *See id.* [ECF No. 51]

2. On June 2, 2020, the District Court for the District Court of Columbia granted TECO’s motion under 28 U.S.C. § 1610(c), permitting TECO to “pursue all permissible method of attachment or execution of Guatemala’s property to satisfy” the Judgment. *See id.* [ECF No. 68].

3. On October 28, 2020, TECO registered the Judgement with the Supreme Court of the State of New York, New York County. *See Exhibit A*. Subsequently, it filed a Restraining

Notice to the Garnishee, the Bank of New York Mellon Corporate Trust Administration (“Restraining Notice”), forbidding the Bank of New York from making “any sale, assignment, transfer, or interference with any such property” of Guatemala that are in “its possession or custody or property in which [Guatemala] has an interest.” *See Exhibit B*, pp 3-4.

4. Pursuant to 28 U.S. Code § 1446(a), Guatemala has attached a copy of all original process and notice filed against it before the Supreme Court for the State of New York. *See Exhibit A; Exhibit B*.

### DISCUSSION

5. According to 28 U.S.C. § 1441(d), a foreign state can remove a civil action instituted against it in a state court. *See Verlinden B.V. v. Cent. Bank of Nigeria*, 461 U.S. 480, 489 (1983) (“[T]he [Foreign Sovereign Immunities] Act guarantees foreign states the right to remove any civil action from a state court to a federal court, § 1441(d).”). *See also Martinez v. Republic of Cuba*, 708 F. Supp. 2d 1298, 1303 (S.D. Fla. 2010) (recognizing that Cuba could remove the garnishment action from a Florida state court).

6. The notice is filed within the limitation period under 28 U.S.C. § 1446(b)(1). According to 28 U.S.C. § 1446(b)(1), a defendant can remove an action within 30 days after receiving the “initial pleading setting forth the claim for relief upon which such action or proceeding is based” by means of “service or otherwise.” The Bank of New York informed Guatemala of the Restraining Notice on November 3, 2020, hence, the notice is timely. *See Exhibit C*.

7. The District Court is the proper venue as the State of New York, County of New York is situated within this federal district. *See* 28 U.S.C. § 1441(d) (a foreign state may remove an action to the “district court of the United States for the district and division embracing the place where such action is pending.”); 128 U.S.C. §§ 112(b).

8. Pursuant to 28 U.S.C. § 1446(d), Guatemala will promptly provide TECO with a written notice of the filing of this Notice of Removal and in parallel file a copy of the Notice with the Supreme Court of the State of New York, County of New York.

9. By removing this action, Guatemala is not waiving any rights, claims or defenses. Guatemala expressly reserves the right to assert any and all defenses, including defenses on personal jurisdiction.

### **CONCLUSION**

10. For the reasons set out above, Guatemala respectfully removes the case captioned *TECO Guatemala Holdings, LLC. V. Republic of Guatemala*, which is pending in the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York.

Respectfully submitted,  
/s/ Mauricio Gomm

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**CERTIFICATE OF SERVICE**

I do hereby certify that I have served a true and correct copy of the foregoing Notice of Removal by email and United States mail upon the following:

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